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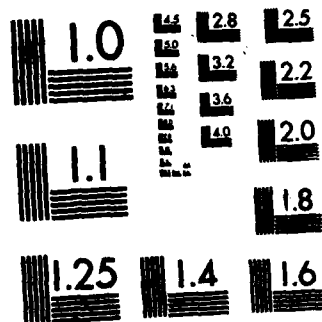
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**THE PRESIDENT AND THE STAGES OF POLICY
DEVELOPMENT**

BY

JOHN P. MEDVE, BA

THESIS

**Presented to the Faculty of the Graduate School of
The University of Texas at Austin
in Partial Fulfillment
of the Requirements
for the Degree of
Master of Arts**

THE UNIVERSITY OF TEXAS AT AUSTIN

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ACKNOWLEDGMENTS

This work represents an attempt to understand the interactions between the president and congress in the development of public policy. The role each of these actors play affect our lives much more than most people care to admit. I hope in some small way this work will provide some insight for those interested in our political system.

Upon completion of a project there are always so many people who contributed in many ways. Intellectually I owe much to my professors at the University of Texas especially Dr. Bruce Buchanan and Dr. David Edwards who supervised this thesis. A special note of thanks goes to Lillard Richardson who put up with my brainstorming in his office and provided much needed friendship.

Finally, my family was an ever present source of support. My mother, father, and sister provided long distance support; my children Patrick and Amanda put things in perspective during the research for this project. My debt to Lynn Bergren Medve, my wife and friend, is immeasurable.

John P. Medve
April 27, 1988

THE STAGES OF PUBLIC POLICY

This paper will examine the stages of public policy with respect to the President and the Congress. These are not the only political actors involved in policy development, but from the standpoint of articulating policy and providing the necessary legal foundations for policy these actors have a significant impact on most policy. What is public policy? A good definition is "a general principle concerning the pattern of activity, or a general commitment to the pattern of activity, developed or adopted for use in making particular decisions about programs or actions."¹ These general principles sometimes put administrations in awkward positions. A good example is the Johnson Administration's adoption of the "New Economics" to use the fiscal policy to control the economy. The Administration found their tax cut in 1964 to control a potential recession was well received, but found their efforts to obtain a tax increase to control inflation frustrated at every turn.

The method that will be used in this paper to examine public policy is to set up a model of policy stages and then

¹David V. Edwards, *The American Political Experience*, 4th ed., (New York: Prentice Hall, 1988), 479.

examine two policy cases using this model. The two cases are the Tax Surcharge of 1968 and the Strategic Defense Initiative. These two cases highlight the various stages of policy development and show that the interaction between the branches of government and other relevant political actors is not limited to certain stages of the process. The actors affect each other in every stage. Before looking at the case studies the stages of public policy development are outlined below.

GETTING ON THE AGENDA

If an issue is to get the attention of the relevant political actors it must first get on the agenda. By getting on the agenda an issue must receive serious consideration by important policymakers. There are many ways in which an issue can get on the agenda: political parties, media attention, and interest groups. However, if an issue is going to proceed through the rest of the stages of public policy it must at some time come to the attention of the President, the Congress or both. These two actors provide access into the legal process which is important if the proponents want the issue to more than raise the public conscience. Several studies had been done to attempt to find out what actor is

the most important in getting on the agenda. Schull, in his book points out: "the President is important in agenda-setting because of his role in stating and ranking policy issues. When innovation occurs it comes from the Presidency in the agenda-setting stage."² Paul Light asserts: "The President's domestic agenda also reflects the allocation of resources, which often are fixed and limited. As a President moves through the term, each agenda choice commits some White House resources--time, energy, information, expertise, political capital. Each agenda item also commits some policy options, whether federal funds or bureaucratic energy."³

FORMULATION OF A POLICY PROPOSAL

Once an issue has been put on the agenda the next step is to find out what can be done to correct the problem. In the two case studies used each Administration gathered relevant information, developed alternatives, debated the alternatives, chose one alternative, and presented a proposal to the Congress. Policy formulation is not always this contained. Formulation of a proposal can come from outside

²Stephen Schull, *Domestic Policy Formation*, (Westport: Greenwood Press, 1983), 16.

³Paul C. Light, *The President's Agenda*. (Baltimore: The Johns Hopkins University, 1982), 2.

agencies, interest groups, or the congress. What is important is that the proposal get to an actor who can provide access to the legislative process or if the remedy is administrative in nature access to the regulatory process.

LEGISLATION

If an issue has maintained an interest level sufficient enough to get on the agenda and force a discussion and formulation of a proposal then next stage is legislation. Legislation provides the process in which proposals are fine-tuned and once passed backed by the government. The legislative process can also be used to get an issue off the national agenda or to expand an issue to include provisions not addressed by the original issue. During this stage the issue may go through the stage of formulation again. An example is the Tax Surcharge of 1968. The Administration reformulated the proposal several times in order to gain acceptance by the Congress. The legislative process itself has developed to limit the number of proposals that can be considered during a session. The rise in the number of bills considered before Congress forces the President and the Congressional leadership to attempt to prioritize legislative measures. Through this process the national agenda is also redefined and measures not considered in a particular

session must again travel through the previous stages in order to be considered for legislation.

LEGITIMATION

In this country the government is the primary source of laws, regulations, and rules that provide guidelines for citizens on what is and is not acceptable in society. Enough citizens must accept the government as an authoritative and legitimate source of these laws, rules, and regulations to enforce these provisions. Acceptance of the government is accomplished through adherence to the procedures of political participation and the compliance with the outcomes of the procedures irrespective of the results. For example, the loser in an election conducted under specified guidelines will not contest the election or advocate disobedience of the government. Once a government has achieved legitimation through acceptance by the citizens then it organizes a set of procedures by which policies can be developed. These procedures are the criteria citizens use to determine a policy's legitimacy. Legitimacy is not a stable condition and a policy can go through several stages of the policy process losing and gaining legitimacy during the journey. Peters outlines four criteria of legitimacy that apply to the majoritarian legislative legitimation process found in the

United States. Since SDI has developed in this environment these criteria will be used to provide the definition of legitimation in this paper. First, "legitimacy is largely psychological."⁴ Second, "legitimacy has substantive as well as procedural elements."⁵ Third, "legitimacy is a variable and not a constant."⁶ Fourth, government must somehow legitimate each individual policy choice."⁷ These criteria underscore that fact that for a policy to remain legitimate it must be seen by at least a majority of politically active citizens as a program worth pursuing.

IMPLEMENTATION

Once legislation is legitimated it includes a method of putting the program into effect. In the case of the two case studies the Internal Revenue Service had to adjust their withholding rates and write the necessary regulations for the surcharge. The Congress approved a Reagan Administration plan for a Strategic Defense Initiative Organization to bring the various technical research together

⁴Guy B. Peters, *American Public Policy: Promise and Performance*, (Chatham: Chatham House, 1986), 63.

⁵Peters, *American Public Policy*, 64.

⁶Peters, *American Public Policy*, 64.

⁷Peters, *American Public Policy*, 65.

in order to form a single concept of operation for SDI. The method of implementation is critical to a program because it will provide the basis of whether a program will be pursued to the desired outcomes of the advocates. The principal method of legislative influence over executive implementation was through the budgetary process. Others have argued that the legislative branch is increasing its participation in implementation of programs. Marcus Ethridge asserts that "the last few decades have witnessed a great increase in statutory provisions giving legislators and their committees authority over implementation decisions. The mechanisms vary considerably in terms of their legal effects, but they are similar in two important particulars. First, they reflect an apparent acceptance of administrative discretion. . . Second, legislative participation mechanisms enable legislators to act after administrative decisions have been made."⁸ The most popular form of legislative participation in implementation was the legislative veto. Yet the ruling in *Chada V. Immigration and Naturalization Service* ruled that measure of legislative voice in implementation unconstitutional unless the provision met

⁸Marcus E. Ethridge, *Legislative Participation in Implementation*, (New York: Praeger, 1985), 21.

the criteria outlined in the Constitution to present any legislative measure to the president. The result is that congress will have to develop new methods of influencing implementation.

INTERGOVERNMENTAL COOPERATION

This stage occurs to coordinate various aspects of the legislated policy through the federal system. The case studies used have little evidence of extensive coordination with other levels of government other than the national government. The support or opposition of other levels of government can be used as evidence of the need for the program. Clearly, those states that have received a large amount of SDI funds have a stake in seeing the policy continued and could become key actors in any attempt to curtail SDI research.

POLICY ADJUDICATION

Policy adjudication is the next stage in the process. This stage refers to settling conflicts with the stated policy. Adjudication can occur within the executive branch by the designated organization responsible for the policy or by congressional involvement through the committee responsible for oversight in the affected policy area. This stage fine-tunes the policy in terms of actual cases and

provides additional guidance to the administrative agency and to the programs constituency concerning what requirements must be met to qualify for the program, what activities will be permitted under the program, and further defines terms in the enacting legislation. In the case of the Strategic Defense Initiative scientists involved in kinetic energy research were relieved to know that their research would be included in the program pursued by the Strategic Defense Initiative Organization. Congressional involvement can come when an affected constituent of the program is not satisfied with the ruling of the executive agency and attempts to alter the ruling by an appeal to the congressional oversight committee.

MONITORING

Monitoring occurs to insure the policy to achieving the desired outcomes. The executive agency (depending if it is a proponent or an opponent of the policy) will collect data that will be used to show the effectiveness of the program. The Johnson Administrations collected enough positive evidence to convince the incoming Nixon Administration to support a one year extension of the tax surcharge. The evidence collected will be used to justify either the programs

extension or termination in the evaluation stage of the policy process.

EVALUATION

The data collected in the monitoring stage of policy development is utilized to judge a policy's success or failure. The policy is judged in terms of the objectives outlined in the legislation or in the absence of clear objectives by the legislature the objectives articulated by the president. For example, in SDI the Administration is using two criteria to evaluate SDI--survivability and cost effectiveness. The actor who defines the evaluation criteria thus has a tremendous amount of influence on the final evaluation of the program.

POLICY MODIFICATION

The results of policy evaluation lead to this next stage in the process--policy modification. Once a policy has been evaluated and deemed to be less than successful alternatives are presented. These alternatives can be proposed by the executive, the legislative, or interest groups. The alternatives are then either used to rewrite

portions of the guiding legislation or used as a basis to start the entire process again.

TERMINATION

The final stage in the policy process is termination. This stage occurs when policymakers allow a program to lapse without extending it through legislation. Termination can occur because the policy has achieved its objective or because the political forces that put the issue on the agenda are not longer present or strong enough to keep the issue on the agenda. In the case of the tax surcharge the policy was extended once but the extension was tied to other economic remedies that precluded further extensions of the surcharge.

CASE STUDY: THE TAX SURCHARGE OF 1968

INTRODUCTION

On January 9, 1967 President Johnson gave his State of the Union Message. He asked the Congress for a six percent surcharge on personal and corporate income taxes. He tied the surcharge directly to the rising special costs of the Vietnam War and warned that the deficit would go beyond the limits the Administration thought acceptable. From January to August 1967 the President did not press vigorously for the surcharge. As a result the Congress did not feel obliged to enact any surcharge legislation. In August, the President again called for a surcharge in a Special Economic Message to the Congress. In this document the President still tied the need for a tax increase to the rising costs of Vietnam, but as opposed to the State of the Union Message this call for an increase was linked to several other economic imperatives that required additional revenues. The Administration noted that an increasing deficit combined with a sharp rise in both the cost of living and interest rates required the Congress to act on surcharge legislation immediately. This second message initiated what

would be a twelve month struggle for the Administration to convince the Congress to pass a tax surcharge. The struggle took the Administration's policy through the stages of policy development. These stages are agenda setting, policy proposal formulation, legislation, legitimation, implementation, intergovernmental cooperation, and policy adjudication.⁹ Even though this policy has traversed these policy making stages, questions still surface, they include: What were the reasons a tax surcharge was necessary? Why did the Administration alter its explanation of the need for the surcharge? Who was the driving force behind the changes? Why didn't the Administration press for the surcharge from January 1967 to August 1967? This case study is not designed to answer these questions, but to examine how the Johnson Administration grappled with them and how their answers framed the structuring of the surcharge battle as it was initially placed on the country's political agenda and how it was modified. Additionally, this case study will explore the politics of legitimation with respect to the tax surcharge and how word politics and the politics of expertise have framed the issue.

⁹David V. Edwards, *The American Political Experience*, 4th ed., (New York: Prentice Hall, 1988), 480-1.

GETTING ON THE AGENDA

The decisions that were made in January and August of 1967 had their roots in the Fiscal Year 1967 budget that was sent to Congress in January 1966, which assumed the war in Vietnam would be finished in 1967.¹⁰ As the fighting continued through 1966 it was apparent this underlying assumption was not valid. Troop strength in Vietnam would reach nearly 400,000 men by December 1966, an increase of nearly 200,000 men from December 1965.¹¹ This realization forced the Administration to examine options for making up the necessary revenues to support the war effort. The decision was made during 1966 not to ask the Congress for a tax increase in an election year. The Administration took short-term measures to insure a flow of funds to the treasury by accelerating the payment of corporate taxes. While decisions were made to ask for a tax increase the President's advisors sent a memo to him in September 1966 indicating that some type of tax measure

¹⁰Transcript, Charles Schultze Oral History Interview, 4/10/69, by David McComb, 16, LBJ Library.

¹¹Stanley Karnow, *Vietnam*, (New York: Penguin, 1983), 682-3.

would be necessary in the future. A memo initialed by Joseph Fowler, Robert McNamara, Nicholas Katzenbach, Lawrence O'Brien, Charles Schultze, Gardner Ackley, David Ginsburg, and Joseph Califano stated:

"We are now in agreement on the following economic package: A statement of your intention to ask, at an appropriate time in the future for whatever tax measures are necessary to raise the money to cover add-ons to the budget by Congressional action or by the Generals in Vietnam. . ."¹²

As the budget process started for Fiscal Year 1968 some in the Administration began to feel that a tax increase was necessary. On November 3, 1966, Joseph Califano sent a memo to all department heads requesting ideas for the forthcoming State of the Union Message. The sole input from the Treasury Department was this statement:

"A surcharge for two years, or for as long as the unusual expenditures associated with our efforts in Vietnam continue."¹³

¹²Memo, Henry Fowler et al to the President, 2 September 1966, EX FG 110, Box 150, LBJ Library.

¹³Note from Treasury Department, Undated, STMTS, WHCF, Box 226, LBJ Library.

The note was undated and unsigned, but it is improbable that a note of this type would get to the White House without the consent of the Secretary of the Treasury.

In December 1966, drafting on both the budget message for Fiscal Year 1968 and the State of the Union Message for 1967. The Administration had not decided what economic program would be spelled out in either document. On December 2, 1966 top Johnson advisors met to discuss the State of the Union Message. Minutes from this meeting indicate that privately some members were conceding that a tax increase would be coming. Joseph Califano stated: "The American People will really be stunned by: (1) The size of the budget, (2) The cost of the Vietnamese War, (3) A tax increase. . ."14 At the same meeting Secretary McNamara sounded a note of caution that all budget decisions should be delayed until after December 15th or 20th when he would have a final estimate for troop strength in Vietnam.15

The various drafts of the State of the Union show the range of options considered by the Administration in regard to the tax question. The December 20, 1966 draft stated

¹⁴Memo, Hayes Redmon to the President, 2 December 1966, EX FG 110, Box 150, LBJ Library.

¹⁵Redmon memo, 2 December 1966.

that no supplemental appropriations would be necessary to support the effort in Vietnam. The December 26, 1966 draft and another draft on January 9, 1967 also included the statement that no supplemental appropriations would be needed, but indicated that the specifics of the Administration's economic plan would be left to the budget message that would be presented to Congress several days after the State of the Union Message. Yet, a second draft of the message on January 9, 1966 reversed the decision not to ask for supplemental funds and indicated that "additional funds will be needed and I shall ask the Congress for _____ billion in supplemental Vietnam appropriations for fiscal 1967."¹⁶ At the same time the President's advisors were again meeting to formulate a tax program recommendation for inclusion in the State of the Union Message. A memo initialed by Secretaries McNamara, Fowler, Wirtz, Connor, Director Schultze, Chairman Ackley, Clark Clifford, and Joseph Califano at 5:30pm on January 9, 1967 (one day before the President's address to Congress) stated:

¹⁶Draft State of the Union Message, Will Sparks, January 9, 1967, STMTS, WHCF, Box 225, LBJ Library.

"We have reviewed the fiscal situation and we would recommend the following program.

1. A 6% surcharge on corporations and individuals with an exception for low incomes, expressed as follows in your Message:

I propose a surtax of 6% on both corporate and individual income taxes--to last for one year or for as long as the unusual expenditures associated with Vietnam continue. This will raise revenues by over \$5 billion for that year. Those with income in the low brackets should be exempt from this increase."¹⁷

A third draft on January 9, 1967 reflected this recommendation. Bill Moyers sent the President a revised draft of the message. The section on the costs of Vietnam stated:

"I propose a simple surtax of six percent on both corporate and individual income taxes--to last only as long as our men are fighting in Vietnam. This will raise revenues by nearly \$6 billion in fiscal 1968. Those with incomes at or near the poverty line should be exempt from this increase. And I urge the Congress to act as promptly as possible."¹⁸

This paragraph reflects the passage submitted to Joseph Califano as an inclusion from the Treasury Department in November 1966. Over the next day this paragraph underwent several revisions. Secretary Wirtz

¹⁷Memo, Henry Fowler et al to the President, January 9, 1967, EX FG 110, Box 151, LBJ Library.

¹⁸Draft State of the Union Message, Bill Moyers, January 9, 1967, STMTS, Box 226, LBJ Library.

wanted to delete the word "simple" from the first sentence. Secretary Fowler suggested the second part of the first sentence be changed to read, "--for one year, unless the prospect of continuing hostilities on a heavy scale calls for its extension."¹⁹ The January 10, 1967 draft reflected the changes suggested by both men. Secretary Fowler's suggestion was shortened to include only the effective period of one year. Additionally, the term "surtax" was changed to "surcharge". The new first sentence read, "I propose a surcharge of six percent on both corporate and individual income taxes--to last one year or for so long as the unusual expenditures associated with Vietnam continue."²⁰ At 6:15pm, three hours prior to the President's address, Will Sparks recalled the page containing the surcharge passage. The change increased the effective time of the surcharge from one to two years. A note at the top of the insert, in Spark's handwriting, stated: "I understand that Joe Fowler was responsible for this change."²¹ President Johnson addressed the Congress at 9:33pm on

¹⁹Draft State of the Union Message, Bill Moyers, January 9, 1967, STMTS, Box 226, LBJ Library.

²⁰Draft State of the Union Message, January 10, 1967, STMTS, Box 226, LBJ Library.

²¹Note Will Sparks to Bill Moyers, January 10, 1967, STMTS, Box 226, LBJ Library.

January 10, 1967 and asked for a six percent surcharge on corporate and individual incomes, initially lasting two years, and linked directly to the rising costs of the Vietnam War. What made the Administration put the surcharge issue on the political agenda? Charles Schultze, in his oral history, indicated that the Administration had considered requesting a tax increase for most of 1966. He indicated a request was not put before the Congress for two reasons: (1) Congress would probably not approve a tax increase during an election year and (2) the President did not want to acknowledge the impact of the war on the economy. The President felt, as Schultze remembered, a request for a tax increase would galvanize support against his Great Society programs and Congress would defer action on these programs because of the "war" situation.²² However, as 1966 ended the projections for the budget deficit made the situation unacceptable for the President and required the inclusion of the tax increase request in the State of the Union message

FORMULATION, LEGISLATION, AND LEGITIMATION OF THE POLICY

²²Schultze, Oral History, 18.

The next three stages in the making of the surcharge policy are all interrelated and occurred simultaneously. The President had put the idea of a tax surcharge on the national agenda, but initial reaction to the proposal was mixed. A headcount of members of the Ways and Means Committee taken on January 13, 1967 stated: "we have not run into any unequivocal opposition, although some members have serious reservations about the imposition of the tax at this time."²³ Two weeks later the President forwarded his budget proposals for Fiscal Year 1968. In this message he again asked for the surcharge on corporate and individual income taxes. Yet after the economic message went to the Congress there was no follow-up action on the part of the Administration.

The Administration delayed action on the surcharge for several reasons. First, the economy for the beginning of the year was better than expected which presented problems as the Administration attempted to gain support for the surcharge. Second, Wilbur Mills, Chairman of the House Ways and Means Committee, was not sold on the idea

²³Headcount, Larry Levinson to President, January 13, 1967, EX FG 110, Box 151, LBJ Library.

of a tax increase. Barefoot Sanders stated in a memo to the President that:

"Mills told Bowman that he thinks he has not been consulted because you believe that if he is not consulted he will oppose the Tax Increase; that his opposition will then be the reason the Tax Increase fails to pass; that this will leave the Administration in the position of advocating a Tax Increase but being unable to overcome his opposition; that the Administration really wants to be in the posture of proposing but not obtaining a Tax Increase."²⁴

Additionally, Mills was uneasy of the Administration's economic forecasts. He had been convinced to go along with a suspension of the Investment Credit in late 1966 only to have the Administration ask for its reinstatement in March 1967. He felt the Administration could be wrong in its forecasts and thought a tax increase would lead to an increase in the inflation rate.²⁵

REFORMULATING THE POLICY- THE BUDGET MESSAGE

On June 5, 1967, at a Quadraid meeting (Fowler, Schultze, Ackley, and Martin) in the Oval Office, the

²⁴Memo, Barefoot Sanders to President, July 20, 1967, Barefoot Sanders, Box 15, LBJ Library.

²⁵Schultze Oral History, 17.

President discussed the general economic situation and specifically when the tax increase proposal should be reactivated.²⁶ The Administration continued to debate the timing of the tax surcharge proposal in light of the upcoming Congressional recess and Secretary McNamara's trip to Vietnam. On June 12, 1967, Joseph Califano sent the President a memo after a meeting with McNamara, Fowler, and Schultze, Wirtz, Ginsburg, Ackley, and Trowbridge stating:

"we discussed the possible timing of a tax increase, Fowler would prefer that you send a message up for a tax increase prior to June 29, even though you may later have to amend your request to increase it because of subsequent Vietnam decisions. Ackley prefers that you go up with one message detailing your proposals after your Vietnam decisions, as do Schultze, Trowbridge and McNamara. Ginsburg and Wirtz prefer no statement by you until after the Vietnam decisions and after the recess because of their basic doubts about the economic situation."²⁷

The President decided to hold off sending a message to the Congress until after the recess and Secretary McNamara's trip to Vietnam.

On July 7, 1967 Secretary Fowler submitted a rough draft of an economic message to the President. Fowler's

²⁶Agenda Quadraid Meeting, June 5, 1967, WHD, Backup, Box 71, LBJ Library.

²⁷Memo, Califano to the President, June 12, 1967, EX FG 110 Box 151, LBJ Library.

draft changed the focus of the reason for a tax surcharge from Vietnam to three additional economic imperatives that required quick action on the part of the Congress. Fowler attempted to assuage Congressman Mill's fears of forecasting errors by underscoring the point that the President reached his conclusions not on projections or forecasts but on "the basis of hard facts."²⁸

Fowler was not the only advisor to shift his emphasis. In a July 11, 1967 memo Joseph Califano put together papers from Martin, Wirtz, Ackley, and Schultze regarding the reasons for a tax increase. Martin wrote:

"A large deficit now would be disruptive to sustained economic growth. . . In our domestic economy inflation would represent an inequitable means of paying for the war, since rising prices always hurt those who are least able to protect themselves. We can, and must find means of sharing in the financial burden of the Vietnam war more equitably. Inflation would also lead to a worsening of our trade balance, endangering the international standing of the dollar. . . Less essential Government spending should, of course, be held in check in the light of current defense requirements. But the provision of adequate public services at home leaves little room for sizable cuts in nondefense outlays."²⁹

Secretary Wirtz noted:

²⁸Draft Economic Message, July 7, 1967, EX FI 11-4, Box 60, LBJ Library.

²⁹Memo, Joseph Martin to the President, July 11, 1967, EX FI 11-4 Box 60, LBJ Library.

"But I am convinced that the only way to get a tax increase right now is to stick to the simplest form of anti-deficit statement."³⁰

Chairman Ackley listed three reasons for a tax increase:

"To avoid too large a Federal deficit;

To avoid too rapid a growth in total demand for goods and services and the inflationary pressures that would bring;

To avoid too much Government borrowing, that would raise interest rates and bid funds away from private borrowers--the largest and most vulnerable segment of whom are homebuilders and buyers."³¹

Charles Schultze summed up his reasons as:

"If a tax increase is not passed, we can look forward during the next year to

-rising interest rates, tight money, and a depressed housing market

-an unprecedented peacetime deficit

-a sharply rising cost of living

³⁰Memo, Willard Wirtz, to the President, July 11, 1967, EX FI 11-4, Box 60, LBJ Library.

³¹Memo, Gardner Ackley to the President, July 11, 1967, EX FI 11-4, Box 60, LBJ Library.

-a widening balance of payments deficit."³²

This canvas of economic advisors shows that all were in agreement as to the reasons and the effects of a tax increase. The redraft of Fowler's message was prepared on July 12, 1967, this was to be the first of nine redrafts of the message over the next two weeks. The July 12th version outlined the economic situation and covered the problem, the fiscal 1968 expenditures, the fiscal 1968 revenues, the resulting deficit, a four point program to meet the nation's needs, and the prospects for the economy. A picture of the economy was presented that justified a tax increase on economic grounds. The sections on the fiscal 1968 expenditures outlined the following reasons for a tax increase:

"First, and most importantly rising expenditures in uncontrollable programs whose payments are fixed by law over which the President has no discretion such as benefits for veterans. . .Second, expenditures which were temporarily deferred until last years anti-inflation program and released this year when the economy was somewhat sluggish. . .Another general increase in estimated expenditures may come in the budget for the nation's defense, as a result of the conflict in southeast asia."³³

³²Memo, Charles Schultze to the President, July 11, 1967, EX FI 11-4, Box 60, LBJ Library.

³³Draft Economic Message, July 12, 1967, Califano, Box 23, LBJ Library.

The four point program listed these elements:

- Reduction in non-essential Government spending
- Continuation of excise taxes for the immediate future.
- Speed up corporate tax collections
- A temporary surcharge on corporate and individual incomes.³⁴

The draft did not include a specific surcharge rate. The Administration was attempting to estimate if a change in the size of the surcharge was necessary based on the economic situation and any potential increase in troops for Vietnam. A new draft was prepared on July 13, that kept the same elements as the previous draft with some minor word changes and as in the previous draft no specific tax surcharge rate was included in the message. The two drafts reflect the change in the Administration's position on the reasons for the need of the surcharge. Seventeen separate references were made to the state of the economy as the primary reason for the surcharge, while the war in Vietnam was only mentioned seven times.

On July 20, 1967 another version of the message was completed and sent to the President. This draft was

³⁴Draft Economic Message, July 12, 1967.

different in format from the previous drafts and was the first draft to include a specific surcharge rate--9 percent. The message outline covered fiscal 1968 nondefense expenditures, fiscal 1968 defense expenditures, fiscal 1968 revenues, the resulting deficit, a three point program to meet the nation's needs, and the prospects for the economy. The revised tax program dropped the reduction in Government non-essential spending from the program section, but included this provision in the section on nondefense expenditures.³⁵ The Administration decided to not highlight this aspect of the program, but protected itself from being called fiscally irresponsible.

On July 21 a memo from Joseph Califano to the President presented the views of the economic advisors with respect to the size of the surcharge. Only Secretary Fowler recommended a 10 percent surcharge. The rest of the advisors recommended a 6 percent surcharge.

A new draft on July 21 used Fowler's 10 percent surcharge figure and deleted the section "prospects for the economy" but added two new sections at the end of the message titled "the consequences of inaction" and "impact of

³⁵Draft Economic Message, July 20, 1967, Califano, Box 23, LBJ Library.

a tax increase on the economy". The thrust of the message was still on the economic reasons for the surcharge and stated that failure to act would cause "a spiral of inflation which would rob the pocket of the poor, the elderly, the millions of Americans with fixed incomes."³⁶

The message underwent five more revisions which consisted of reformatting the message to make it flow more evenly. The final version of the message consisted of fifteen pages of text, with only ten direct references to Vietnam. The President's decision to send 45,000 additional troops to Vietnam is on page six of the document and offers no elaboration as to why the increase is necessary. The Administration's attempt to shift the tone of the necessity of the surcharge is best illustrated in the conclusion of the message which states:

"There are times in a Nation's life when its armies must be equipped and fielded, and the Nation's business must still go on. For America that time is now. The nation's unfinished agenda here at home must be pursued as well. The poor must be lifted from the prisons of poverty, cities must be made safe and livable, sick and undernourished bodies must be restored, our air and water must be kept clean, and every hour of our future must see new opportunities unfold."³⁷

³⁶Draft Economic Message, July 21, 1967, Califano, Box 23, LBJ Library.

³⁷Economic Message, July 26, 1967, Califano, Box 23, LBJ Library.

On August 3, 1967, nine months after his first request, President Johnson again formally requested the Congress to pass a surcharge on personal and corporate income taxes. The Administration had not only reformulated the surcharge rate but had shifted the emphasis for the tax from the war to the performance of the economy.

LEGISLATION AND LEGITIMATION

The challenge for the Administration once the President had issued his budget message was to get the proposal through the Congress as fast as possible. The President's economic advisors had based their assumptions on the effect of the surcharge on an enactment date of October 1, 1967. The Administration had tried to smooth the path of the request with Wilbur Mills, the Chairman of the House Ways and Means Committee, but had been unsuccessful. Mill's was concerned that the cause of inflationary pressures on the economy was not "demand pull" but "cost push". The Administration asserted that the surcharge was an appropriate economic remedy for demand pull inflation because it would work directly to slow down consumer spending. Mills asserted that in his analysis the

effect of the surcharge in a cost push inflationary situation would have the opposite effect. In his view consumers and businesses, faced with lower after-taxes earnings, might seek to maintain their earnings by demanding higher wages and higher prices. Mills wanted to deal with the inflationary pressures by reducing federal expenditures which would cut down demand but not directly affect personal and corporate incomes and therefore not contribute to cost-push inflationary pressures.³⁸ This argument would continue into 1968.

Mills scheduled hearings for the President's proposal on August 14-15, August 21-28, and September 12-14. The Administration solicited help to frame the issue prior to the hearing dates. The White House staff contacted a number of prominent economists and obtained their agreement to wire or write Mills.³⁹ The Administration was also faced with the problem of logrolling with several major interest groups to gain their support for the surcharge. One example is the National Association of Home Builders. Larry Levinson sent a memo to the President which noted:

³⁸Surtax-2, 1967 *Congressional Quarterly Almanac*, Washington D.C.: Congressional Quarterly, 1967, 644.

³⁹Memo, Gardner Ackley to the President, August 4, 1967, Legislative Background-Tax Increase, Box 4, LBJ Library.

I would have thought that the National Association of Home Builders would come out strongly for the President's tax proposal.

As a group they stand most to lose by soaring interest rates.

Now I find that they are holding out for concessions. They will not endorse the President's proposal unless we exceed to their demands on this central mortgage banking facility. . .

I hate to pay this price but I believe we should do it because of the influence that the Home Builders have particularly in the Ways and Means Committee.⁴⁰

The Administration also attempted to get its message on the tax surcharge to as wide an audience as possible. Robert Fleming wrote the President: "On the effort to get network attention to the tax bill, I've talked with Bill Monroe who said he'd see if Meet the Press could invite Secretary Fowler for next Sunday."⁴¹

Additionally, Joseph Califano had sent copies of the budget message to over 100 corporate executives in an effort to gain their support for the proposal.⁴² Gardner Ackley sent a memo to the President that outlined a plan to have a number of academic economists endorse the President's tax surcharge. Several days after the memo 260

⁴⁰Memo, Larry Levinson to the President, August 7, 1967, Legislative Background-Tax Increase, Box 4, LBJ Library.

⁴¹Memo, Bob Fleming to the President, August 7, 1967, Legislative Background-Tax Increase, Box 4, LBJ Library.

⁴²Memo, Joe Califano to the President, August 14, 1967, Legislative Background-Tax Increase, Box 4, LBJ Library.

academic economists released a statement endorsing the President's plan.⁴³

The Administration was not pleased with the outcome of the hearings. Mills and others on the committee kept questioning the Administration officials about larger cuts in the budget and noting their lack of enthusiasm for the surcharge. Mills specifically challenged the contention that the surcharge would be temporary and warned that pressures for new domestic programs would make future Administration officials reluctant to let the tax increase expire.⁴⁴ John W. Byrnes (R-Wis), the leading Republican on the committee, questioned the Administrations estimate of the economic situation and asserted that the October 1 date for the tax is "completely impractical" and "Congress is not chafing at the bit to pass the tax proposal."⁴⁵

After the hearings ended Charles Schultze sent the President a memo outlining his thinking on what the Administration should do regarding the tax bill. He stated:

First, it is clear that Wilbur Mills, and many of the other Democrats, and all the Republicans on Ways and Means are going to try and hold us up for

⁴³Memo, Gardner Ackley to the President, September 9, 1967, Legislative Background-Tax Increase, Box 5, LBJ Library.

⁴⁴1967 *Congressional Quarterly Almanac*, 647.

⁴⁵1967 *Congressional Quarterly Almanac*, 648.

- . a specification of budget cuts
- . much larger budget cuts than we are now talking about

Second, I do not believe that we can promise significantly larger civilian cuts than the \$2 billion already given the committee--unless we are willing to take a further large cut in NASA. . .

Third, we cannot get anywhere by counting the \$1 billion pay and \$2 billion P.C.'s as a "cut".

Fourth, I strongly urge that we not make overall reduction promises that we can't deliver. The temptation may be strong to promise larger cuts, put in some technical qualifications, and hope the qualifications will save us when the final figures start coming in.

These considerations lead to the following conclusions:

1) Tell the Committee that:

-we are firmly committed, in cooperation with the Congress, to cut at least \$2 billion in civilian expenditures.

-we will announce the specific cuts as soon as possible after the appropriations are enacted.

-Defense expenditure cuts will be made to offset Vietnam increases so as to hold the defense increase to substantially less than \$4 billion--barring a major intensification of combat.

2) Make it clear that we cannot and will not wreck our domestic programs by going beyond this.

3) Say to Wilbur Mills, and the Committee, that

-more and more evidence of the need for a tax increase is pouring in

-expert business and economic opinion is almost unanimous on the need for a tax increase.

Under these conditions do they really want to take the risk of being the ones to be blamed for inflation, high interest rates, and a sadly depressed housing market.

In short, I think Mills and the Committee are playing "chicken" in an "eyeball to eyeball" confrontation. I can't be positive--and obviously I'm not the world's greatest expert on what

moves the Congress--but I think that if we are willing to take a strong and unyielding stand, they will blink first. .⁴⁶

Unfortunately for Schultze the committee didn't blink first. On October 3, 1967, the committee voted 20 to 5 to set aside the President's surcharge proposal until "the President and Congress reach an understanding on a means of implementing more effective expenditure reductions and controls."⁴⁷ There was no further action on the proposal for the rest of the year.

In January 1968 President Johnson renewed his call for a tax surcharge. On January 1, the President announced that the United States balance of payments deficit was expected to increase sharply. He urged the Congress to take this as evidence of the need for the surcharge to help reduce the amount of money available for spending abroad, and, by holding down inflationary pressures, maintain the competitive position of United States goods in the world and help reduce the size of the balance-of-payments problem.⁴⁸ President Johnson emphasized his desire for a tax surcharge

⁴⁶Memo, Charles Schultze to the President, September 16, 1967, Legislative Background-Tax Increase, Box 4, LBJ Library.

⁴⁷1967 *Congressional Quarterly Almanac*, 653.

⁴⁸Surtax 3, 1968 *Congressional Quarterly Almanac*, Washington D.C.: Congressional Quarterly, 1968, 265.

in his 1968 State of the Union Message. He asserted that failure to act would lead to "an accelerating spiral of price increases, a slump in home building and a continued erosion of the American dollar. . ."⁴⁹ The Fiscal 1969 Budget sent to the Congress included revenues from the surcharge as well as accelerated corporate tax payments and extended current excise tax rates.

The House Ways and Means Committee resumed hearings on the President's tax proposals on January 22 and 23. The Administration again claimed that the economic evidence indicated for the passage of the President's complete tax package. Yet, a majority of the committee did not agree and on February 23 the committee reported HR 15414 that included continuation of the excise taxes on automobiles and telephone service and the acceleration of corporate income tax payments. The committee took no action on the surcharge proposal, but kept the door open for future action by stating the bill was not 'intended to prejudice possible future action with respect to other tax recommendations which have been proposed by the Administration."⁵⁰ Mill's made a statement later that

⁴⁹1968 *Congressional Quarterly Almanac*, 6-A.

⁵⁰1968 *Congressional Quarterly Almanac*, 276.

reaffirmed his position that the surcharge was linked to large cuts in domestic spending. On February 29 the House by voice vote passed HR 15414 as reported by the Ways and Means Committee.

The Senate began its consideration of HR 15414 on March 12, 1968. Again the Administration sent its economic advisors to testify for the bill and Secretary Fowler specifically argued for the surcharge. During questioning Senator Anderson (D, NM) indicated that he proposed to include the surcharge in an amendment to the bill. Senator Smathers (D, FL) stated he would support such an amendment. However, Senator Long, the Senate Finance Committee Chairman indicated he would vote against the proposed move. Fowler stated that the Administration would welcome any move to include the surcharge in the bill as long as it was done quickly. The committee rejected two amendments to include the surcharge in the bill. A proposal by Senator Smathers was defeated by a committee vote of 5-12. An amendment by Senator John Williams (R, Del) to add the surcharge but have it coupled with a mandatory \$8 billion spending cut was defeated by an 8-9 vote. The bill was then sent to the Senate floor for consideration.

Once the bill got to the Senate floor Senators Smather and Williams combined their defeated committee amendments into one proposal and submitted this new amendment to the Senate for consideration. The amendment was adopted by a vote of 53-35. The Administration was not happy about the required \$8 billion cut, but decided to support the measure as a way to get the surcharge. Finally on April 2, 1968, the Senate passed HR 15414 as amended.

The bill was then sent to conference committee and taken up for action on May 1. The conference committee debated the differences over the next month. The debate centered not on the surcharge, but the size of the budget cut. The Senate version called for an \$8 billion cut, while the Administration lobbied the conference committee to agree to a \$4 billion cut. The end result was a compromise budget cut of \$6 billion. The Administration was lobbied to accept the compromise. A memo from Joseph Califano told the President: "The attached telegram just arrived from members of the Business Council urging that you indicate a willingness to accept the conference agreement on the tax

bill, even though the reductions exceed what you consider to be a wise level."⁵¹

Final action on the bill was taken by the House on June 20 and by the Senate on June 21. The votes were 268-150 and 64-16 respectively. The President signed the bill on June 28, 1968.

POLICY IMPLEMENTATION AND ADJUDICATION

The Johnson Administration, after eighteen months, had gotten a tax surcharge. Once the bill was signed into law the President and his advisors studied the impact of the delay on the expected revenues. The surcharge was to be in affect for one year. The President and his advisors concluded the surcharge would be needed for an additional year to meet the costs of the war and the threat of inflation. President Johnson met with President-elect Nixon and discussed the situation. Both men agreed on the necessity of the extension. In January 1969 President Johnson asked for a one year extension of the surcharge. President Nixon formally requested the extension in a March 26 message to the Congress. The Congress was not very receptive to the

⁵¹Memo, Joe Califano to the President, May 17, 1967, Legislative Background-Tax Increase, Box 6, LBJ Library.

extension request. President Nixon modified the request on April 21 when he announced his tax reform proposals. The new plan consisted of a six month extension at the ten percent rate followed by another extension of six months at five percent. Opposition in the House centered around the sincerity of the Administration's tax reform proposals. The Administration attempted to quell these concerns by agreeing to speed up its tax reform proposals. Despite these efforts the House barely passed the extension measure (HR 12290) 210-205. The Senate Finance Committee held hearings on the bill and passed the bill out of committee by a single vote. The Senate did not take any other action of HR 12290. However the efforts to gain the surcharge extension were not finished. After intense negotiations Senator Mansfield, Senate Majority Leader, agreed to an extension of six months if the Administration gave assurances of substantial tax reform. The Administration agreed and the Senate attached an amendment to HR 9951 to extend the surcharge through December 31, 1969. The Senate passed the amended bill by a vote of 70-30 on July 31. The House followed by accepting the Senate amendment to HR 9951 by a vote of 237-170. The President signed the bill on August

7, 1969. The Administration did not request another extension of the surcharge.

THE TAX SURCHARGE AND THE POLITICS OF LEGITIMATION

The tax surcharge and the politics of legitimation have been outlined above. This section will examine legitimation in detail with emphasis on how the political actors in the debate have used the politics of words and expertise to frame their discussion of the tax surcharge.

The efforts to legitimate the surcharge took the Administration from January 1967 to July 1968. The Administration altered the emphasis for the surcharge from war tax to economic tax in an effort to gain wider acceptance for the proposal and to protect its domestic programs. Additionally, the Administration was forced to accept budget cuts in excess of what it thought prudent. Prior to the January 1967 announcement the Administration hedged on what tax measures it would take to deal with the cost of the war and the effects on the economy. Kermit Gordon wrote Joseph Califano in September 1966:

I think the President's statement of intention should be couched in language, which would permit him, on reviewing the situation in December, to ask for a tax increase which might be more or less than the anticipated increase in expenditures.⁵²

The President followed this advice and left the door open for any type of tax measure. The inability of the Administration to put forth a definite plan prior to January 1967 gave the impression that the situation was not critical. Further, the President's economic advisors were split on what type of action should be taken and when it should be taken. In addition, the President's advisors were unable to agree with Wilbur Mills on the economic problem that was being faced. In August 1966 two members of President Johnson's congressional liaison staff sent the a memo outlining Mills's position.

. . . Mills launched on a discussion of the economy. He said that he is fearful of the economic impact of a general tax increase, but that he feels that some gesture should be made toward cooling off the inflationary heat, and that he is inclined to favor eliminating the investment tax credit. We attempted to explore lightly the question of whether he would put up with permitting the repeal of investment credit to be tacked on in the Senate. . .

However, while we were there, there showed up a fellow who obviously Mills regards as his economic advisor. His name is Norman Ture. He is with the National Board of Economic Research, Inc. and he was formerly a staff member on the Hill. . . Ture speaks with considerable assurance and quite obviously he has Mills ear. It is

⁵²Memo, Kermit Gordon to Joe Califano, September 6, 1966, Legislative Background-Tax Increase, Box 2, LBJ Library.

Ture's general thesis that the economy faces immediate danger of recession far more than danger of inflation. He is pointing far more in the direction of a tax cut for next year than for a tax increase. . . I will not attempt further to explore the details of Ture's views, but he obviously will bear watching.⁵³

The President was in a difficult position. He had to attempt to reconcile the differing views of his advisors while at the same time try and gain Mills's support for a tax increase.

THE SURCHARGE AND THE POLITICS OF EXPERTISE

The differing views of the President's economic advisors had their roots not in the specific remedy to the economic situation but in the technical specifications that remedy would contain. President Johnson had a pattern of resolving disagreements within the Administration on economic matters. First, he would have position papers prepared outlining all points of view on a particular matter. He would follow this action by forcing his advisors to meet to consider these alternatives until a consensus was reached on the specific remedy. The final phase consisted of having the advisors sign a memo to the President outlining the

⁵³Memo, Larry O'Brien and Henry Wilson to the President, August 19, 1966, Legislative Background-Tax Increase, Box 1, LBJ Library.

specific remedy. The President then used this document to keep his advisors in line and as evidence that all his experts were in agreement. A June 12, 1967 memo from Joseph Califano illustrates the point:

McNamara, Fowler, Schultze, Wirtz, Ginsburg, Ackley, Trowbridge and I met on the tax issue this afternoon.

With the exception of Wirtz and Ginsburg, there is general sentiment for a tax increase. Wirtz is presently opposed to one. Ginsburg has deep reservations about moving forward on the basis of present economic information; he fears that you will have a tax increase on the books with a soft economic situation in January.

Fowler strongly favors a tax increase, as do Ackley and Schultze although they are not as vehement as Joe is. Trowbridge is inclined to favor a tax increase, but with an effective date later than Fowler, Ackley and Schultze prefer.

McNamara believes there must be a tax increase because of the budget deficit situation, but believes the amount of it cannot be determined until the decisions on Vietnam are made when he returns from his trip.⁵⁴

A note at the top right-hand corner of the memo with President Johnson's initial under it states: "For God's sake get agreement."⁵⁵ Ten days later the advisors had signed a memo outlining their support for a ten percent surcharge on personal and corporate incomes. The forcing of consensus produces several problems the least of which is how do the various advisors explain a change in their position to their constituents. In the surcharge case explanations were

⁵⁴Memo, Joseph Califano to the President, June 12, 1967, Legislative Background- Tax Increase, Box 1, LBJ Library.

⁵⁵Memo, Joseph Califano to the President, June 12, 1967.

prepared by Secretary Fowler, Chairman Ackley, and Director Schultze. An example is a June 12, 1967 memo to the President.

6. If there is no announced decision to increase troop deployment now, we face a problem of how to defend a higher surcharge than we recommended in January. The following arguments can be used:

The delay in enacting the surcharge loses more than 1/4 of its revenue effect for individuals in FY 1968.

The earlier and more liberal restoration of the investment credit also lost us revenues.

Even with an 8% surcharge, we will still get considerably less revenue in FY 1968 than we estimated in January.

The need for higher revenues not only in FY 1968 but also to hold down the deficit in FY 1969.

The inevitable contingencies of a war and the possibility that defense might cost more than our best estimate.⁵⁶

These differing views on the size and timing of a tax increase combined with alternating explanations of the necessity of the tax increase did not provide a good foundation for legitimize the proposal. A key political actor in the debate, Wilbur Mills, was not persuaded by the Administrations actions that a surcharge was the proper remedy. Mills held the balance because a majority of the House Ways and Means Committee agreed with him. Mills held his views despite heavy lobbying by the Administration. As noted above businessmen, economists, media, and administration personnel advocated the tax

⁵⁶Draft Memo, Joseph Califano to the President, June 12, 1967, Legislative Background- Tax Increase, Box 1, LBJ Library.

increase proposal. Yet, Mills held to his views. President Johnson wrote that two sources of conflict between the Legislative and Executive branches kept Mills from seeing eye to eye with the Administration. First, "is the difference in constituency. . . Many Congressmen and Senators understood my concern for the economy as a whole, but each legislator had one overriding need-to make a record with the people who sent him to office. . . A second area of conflict is the difference in information. On economic questions, I had the opinions of a wide range of experts in the Council of Economic Advisers, the Treasury, and the Bureau of the Budget. . . While a President has a large number of experts and statisticians available, the individual Congressman must rely on a personal staff of three or four and a committee staff of half a dozen or less. Consequently, he must either accept our facts, which he often dislikes doing, or find his own sources of information. Those sources were readily available. Though most economists agreed that a tax increase was needed to combat inflation, a significant minority disagreed, and their arguments did not go unheeded."⁵⁷

⁵⁷Lyndon Johnson, *The Vantage Point*, New York: Holt, Rinehart and Winston, 1971, 440-1.

One such additional source of information was Norman B. Ture of the National Bureau of Economic Research. As noted above a 1966 memo to the President noted Ture was close to Mills. Ture was the only economist who opposed the tax increase to testify before the Ways and Means Committee. In his testimony before the Committee Ture directly challenged the accuracy of the Council of Economic Advisors (CEA) economic forecasts. He asserted that the past record of the CEA was not very reassuring. Further he claimed the surcharge would not have any prompt and significant effects in curbing private spending, either by businesses or by households. Apparently Ture's views were heeded as the Committee later tabled the tax proposal for the rest of 1967. The net result of the surcharge debate at this point was that the Administration had marshalled a large number of experts to testify to the need of the surcharge, but the program at that point had not gained legitimacy because a key political actor in the process had not accepted its legitimacy. The ability to overcome this problem was a result of a little used parliamentary maneuver. The Senate, as noted above, passed an amendment to a House bill that included the surcharge proposal. This tactic allowed the Administration to break

the bill out of the grasp of the House Ways and Means Committee. The Administration paid a high price for legitimacy. The President did gain the surcharge, but Congress insisted on a \$10 billion reduction in projected fiscal 1969 appropriations, a \$6 billion reduction in fiscal 1969 spending, an \$8 billion rescission of unspent prior year appropriations and a cut back of 245,000 civilian employees in the Executive Branch.

CONCLUSION

This case study provides a vastly different view of the Executive branch in the process of policy development. Although the Johnson Administration did put the surcharge on the national agenda it did so only after repeated modifications of the proposal to accommodate congressional views. Despite this effort the Administration still could not obtain passage of the surcharge until a parliamentary procedure provided a way of getting the measure to the floor of each house of congress. The role of the president in the policymaking process has tended to be overemphasized. While the president does have the ability to set the framework of debate on an issue that ability does not guarantee success. Other relevant political actors can

modify the framework of debate and use their legislative prerogatives to stop debate on the issue.

CASE STUDY: THE DEVELOPMENT OF SDI POLICY

INTRODUCTION

On March 23, 1983, President Reagan addressed the nation. He called upon the nation's scientists to develop a shield that would protect the nation from nuclear weapons and render these weapons "impotent and obsolete". This call initiated what is now a four- and- a -half- year long debate on the Strategic Defense Initiative (SDI). The course of this debate has taken the President's policy through the stages of policy development. These stages are agenda setting, policy proposal formulation, legislation, legitimation, implementation, intergovernmental cooperation, and policy adjudication.⁵⁸ Even though this policy has traversed these policy making stages, questions still surface, they include: what exactly is SDI? Is it technically possible? Does the research violate the 1972 Anti-ballistic missile treaty? Is SDI only a bargaining chip for further nuclear arms negotiations with the Soviet Union? Can the United States afford a program of this magnitude? This case study is not intended to answer these questions, but to examine how

⁵⁸Edwards, *The American Political Experience*, 480-1.

policy makers grappled with these questions and how their answers framed the structuring of the SDI policy as it was initially placed on the country's political agenda and how it has been modified. Additionally, this case study will explore the politics of legitimation with respect to SDI and how word politics and the politics of expertise have framed the issue.

GETTING ON THE AGENDA

The concept of anti-ballistic missile defenses did not burst upon the political scene with President Reagan's SDI speech. Research programs have been funded since the 1950's to grapple with the problem of defending against incoming nuclear weapons. These research programs have ranged from an emergency ICBM defense, suggested in the Eisenhower Administration (an effort to explode nuclear weapons above the earth in the path of incoming missiles to detonate them) to the Satellite Inspector/Interceptor (SAINT) and Ballistic Missile Boost Interceptor (BAMBI) programs of the Kennedy Administration.⁵⁹ These programs were cancelled because the current technology could not

⁵⁹Gregg Herken, "The Earthly Origins of Star Wars," *Bulletin of the Atomic Scientists*, (October 1987), 21.

support the proposed concepts. Concern about the Soviet Union's ability to deploy an anti-ballistic missile system prompted negotiations between the United States and Soviet Union which led to the 1972 Anti-Ballistic Missile (ABM) Treaty. The two countries agreed not to deploy ABM systems with the exception of two sites limited to 100 launchers.⁶⁰ In 1974 both countries agreed only to utilize one site.

Yet, the signing of the ABM Treaty did not end research on means of defending against nuclear missiles. Three competing lines of research progressed through the late 1970's and caught the attention of key political leaders. These research programs were possible due to "advances in microelectronic and computer technology".⁶¹ The first of these programs was advocated by retired Lt. Gen. Daniel Graham, founder of High Frontier, a Washington, D.C. based lobby for space based defense.⁶² Graham's program was an updated version of BAMBI that would put a space station in orbit and fire sub-atomic particle beams at enemy missiles.

⁶⁰Pat Towell, "The legal Issues in the ABM Treaty Fuel Debate over the SDI Program," *Congressional Quarterly*, 14 February 1987, 272.

⁶¹Herken, 21.

⁶²Herken, 21.

Graham asserted technology was already available to deploy his project and only engineers were necessary to put the project into operation.⁶³ The second program was sponsored by Republican Senator Malcom Wallop and centered around the development of chemically powered lasers that would destroy enemy missiles. The system would be lifted into space prior to hostilities by the space shuttle. The system as originally conceived is vulnerable to hostile anti-satellite systems. Research on chemically powered lasers has been done by Rockwell International. Rockwell was awarded an Air Force contract in 1976 to develop a chemical laser and specifically design the compact resonator, a component that helps extract intense beams of light from chemical reactions. Currently, the system includes a baseplate, used to keep the laser beam steady, ten times heavier than the lift capacity of the space shuttle.⁶⁴ In 1981 the Senate supported a measure to increase funding for chemically generated lasers. The third research program was sponsored by Edward Teller and his colleagues at the Lawrence Livermore nuclear weapons laboratory. His program, conceived in the late 1960's, was

⁶³Herken, 21.

⁶⁴Wayne Biddle, "Star Wars Technology It's More than a Fantasy," *New York Times*, 5 March 1985, National Edition.

based on nuclear-powered lasers. In theory at least, Teller's system is compact and orbited at the outset of hostilities. The system is designed to destroy targets at the speed of light with "shock waves produced by X-rays."⁶⁵ Teller's ideas had a profound impact on Ronald Reagan. In 1967, shortly after assuming the governorship of California, he visited the Livermore laboratory. Teller noted that Reagan "listened carefully and interrupted maybe a dozen times. Every one of his questions was to the point. He clearly comprehended the technology."⁶⁶ Reagan was troubled by the inability of the United States to destroy incoming missiles. He voiced this concern at a tour of the North American Defense Command during the 1980 Presidential campaign, "I think the thing that struck me was the irony here, with this great technology of ours, we can do all this [tracking objects in space], yet we cannot stop any of the weapons that are coming at us."⁶⁷ Teller briefed members of Congress on his progress in February 1981 and the potential the research had for missile defense. In 1982, the

⁶⁵Herken, 21.

⁶⁶William J. Broad, "Reagan's Star Wars Bid Many Ideas Converging," *New York Times*, 4 March 1985, National Edition.

⁶⁷Broad, "Reagan's Star Wars Bid Many Ideas Converging."

Congress was split on the focus of laser research with the House supporting Teller's position and the Senate supporting Wallop's. The various advocates met with key Administration officials to promote their programs. Graham met with Defense Secretary Caspar Weinberger, Edwin Meese, and Richard Allen. Teller along with Reagan confidants Joseph Coors, William Wilson, and Karl Bendetsen talked with the President in January 1982 and urged him to promote additional funding for the program.⁶⁸ Teller met with Reagan alone in September 1982 again to discuss the program and later talked with members of the Joint Chiefs of Staff and civilian officials in the Defense Department.

The discussions concerning the various strategic defense options were being conducted in a environment charged by a growing concern with the nuclear threat. The decision to group the MX missiles together was challenged, anti-nuclear rallies gained support, and Roman Catholic bishops drafted a letter urging a halt in the production of nuclear weapons. The growing opposition to nuclear weapons sent Administration officials looking for alternative methods of strategic defense. The advances in the Teller program provided an appealing alternative to

⁶⁸Herken, 22.

ground based missile systems. The President met with the Joint Chiefs of Staff on February 11, 1983 to review options for strategic defense. The President was presented with several choices " that reportedly included shifting the emphasis in deterrence from land-based ICBMs to submarine-launched ballistic missiles, bolstering conventional forces, increasing reliance on an expanded navy"⁶⁹ and space based strategic defense. The President chose space based strategic defense. Robert McFarlane, the President's National Security Advisor, assigned three members of his staff to prepare a speech for the President announcing the decision. The preparations were kept secret and no copies of the draft speech were circulated to various agencies for comment. The President's science advisor was not informed until four days before the speech of the President's decision and the impending public announcement.⁷⁰ The decision to keep the announcement secret was based on the belief that any leak would have killed the development of the program. The President delivered his speech on March 23, 1983. Many of the scientists who had worked on the Manhattan Project were

⁶⁹Herken, 24.

⁷⁰Herken, 25.

invited to the White House for the speech. The Administration hoped that these scientists would support the program. Unfortunately for the President this group was split concerning the program as were other scientists across the country who voiced their concern about the program. Additionally, many in the Administration were caught flat footed after the speech. Alexander Haig noted that the next day at the Pentagon "they were all rushing around saying 'what the hell is strategic defense?' "71

The net effect of the speech was to put the issue of Strategic Defense on the national agenda. As Peters noted, "problems will not be placed on the agenda until there is a technology that is believed to be able to solve the problem."72 Apparently, Ronald Reagan believed.

FORMULATION, LEGISLATION, AND LEGITIMATION OF THE POLICY

The next three steps in the making of SDI policy are all interrelated and occurred simultaneously. Although the President had put the issue of Strategic Defense on the

⁷¹Broad, "Reagan's Star Wars Bid Many Ideas Converging".

⁷²Guy B. Peters, *American Public Policy, Promise and Performance*, 2d ed. (Chatham: Chatham House, 1982), 50.

agenda the fact remained that a unified program did not exist. All three competing approaches to SDI were being funded and pursued independently at the time of the President's announcement. The funding battle between the Administration, interested scientists, and the Congress would shape the policy from 1983 to 1986.

After President Reagan's speech opponents argued that the program would undermine the deterrent balance between the United States and Soviet Union. The Administration countered by stating the program would take decades to complete and stressed the importance of accelerating existing research and development programs to keep abreast of the Soviet Union. In line with this reasoning the Administration requested "\$462 million for a variety of research programs dealing with anti-missile laser research"⁷³ for fiscal year 1984. The President's request was not honored. The conference committee on Defense appropriations reflected the split that occurred in 1982 between Senator Wallop and others regarding what emphasis the program should pursue--chemical or nuclear powered laser systems. The Pentagon urged the nuclear

⁷³"Fiscal 1984 Authorization-2", *1983 Congressional Quarterly Almanac*, (Washington, D.C.: Congressional Quarterly, 1983), 176.

powered approach. However, the committee decided to alter the Administrations proposals by cutting \$163 million and adding \$125 million for its own projects. Further, the committee noted that both systems could be tested side by side in 1988. The President's SDI program passed its' first of many budget hurdles but did not pass unscathed. The Administration would attempt to put its' SDI house in order by the Fiscal Year 1985 budget submission in January 1984.

LEGITIMATION AND LEGISLATION

SDI as a planned program was legitimated during the 1984 budget process. No serious organized opposition challenged the concept of SDI. Serious opposition that would threaten the legitimacy of the program would not occur until late 1985.

The 1984 budget request included an outline of a five year \$25 billion research program to develop SDI. The Administration requested \$1.78 billion for Fiscal Year 1985. The request included plans for a Strategic Defense Initiative Organization (SDIO) that would oversee the various research programs and conduct long range planning. The House panel complained that the proposal was ill-defined and

recommended cutting \$407 million from the program in light of budgetary constraints. The panel also complained that there was too much overlap among the different projects under the strategic defense umbrella.⁷⁴ The Secretary of Defense was directed to submit a detailed report on plans for the strategic defense program within 90 days of the bill's enactment. The Senate recommended cutting the program by only \$205 million. The conference committee reached a compromise of \$1.4 billion for the program. The election year may have played a part in limiting opposition to the program on budgetary constraints alone. Members may not have wanted to open themselves to charges of being soft on defense during election campaigns.

This is not to suggest that opposition outside the Congress did not question the technical viability of the program or the affects the program might have on relations with the Soviet Union. In fact, President Reagan's science advisor addressed these charges in an interview, noting that "strategic defense against ballistic missiles is feasible, necessary, and stabilizing. . . And I think the Strategic

⁷⁴"Defense Authorization-2," *1984 Congressional Quarterly Almanac*, (Washington, D.C.: Congressional Quarterly, 194), 38.

Defense Initiative is the first new thinking about deterrence that we've seen in decades. I think it's critical, it's long overdue, and interestingly enough, the debate so far has been illuminating, but it reveals more resistance to change than it does cogent, credible arguments."⁷⁵ Additionally, the Defense Department demanded on 4 June 1984 that the Congressional Office of Technology Assessment (OTA) retract a report released in April 1984 critical of the Strategic Defense Initiative. The report, prepared by Ashton B. Carter a physicist at the MIT Center for International Studies, challenged the feasibility and legality of the program. The Defense Department contended that the study contained significant errors. The director of OTA, John Gibbons, turned down the request.⁷⁶ While these two arguments against the program did not affect the legislative appropriations process; the arguments were harbingers of events that would challenge the program's legitimacy in 1986 and 1987.

IMPLEMENTATION AND INTERGOVERNMENTAL COOPERATION

⁷⁵"Interview with George A. Keyworth", *Science and Government Report*, Vol. 14, No. 10, (June 1, 1984), 5.

⁷⁶"DOD Sought to Squelch Critical Star Wars Report", *Science and Government Report*, Vol. 14, No. 12, (July 15, 1984), 6.

In 1985 the SDI program began to take a life of its own. The allocation of \$1.4 billion established the program as a continuing source of research funding for universities and long term defense contracts for corporations. The director of the SDIO General James A. Abrahamson took charge and testified to the soundness of the project before congressional appropriation committees. The Congress again did not argue SDI's underlying rationale, but did cut \$1 billion from the Administration's request as a response to budgetary stringency.⁷⁷ However, the establishment of SDIO and its control over funds began to build a constituency for SDI. On the academic front General Abrahamson met with university presidents to sell the program as a valuable opportunity to conduct significant research. He attempted to allay the fears of the university presidents that acceptance of SDI money implied support of the concept of strategic defense.⁷⁸ Requests for the research and development money were made more attractive by the relatively simple

⁷⁷"Defense", 1985 Congressional Quarterly Almanac, (Washington, D.C.: 1985), 118.

⁷⁸"Academic Boycott Rouses DOD's Star War Chiefs", *Science and Government Report*, Vol. 15, No. 17, (October 15, 1985), 2.

application system. Applicants were required only to submit "a white paper not to exceed 10 double space typewritten pages and a rough outline of funding requirements."⁷⁹ In 1985 29 universities in 16 states received long-term contracts totaling \$62 million.⁸⁰

SDIO also had money to issue to defense contractors. The ten top SDI contractors for 1985 were:

<u>COMPANY</u>	<u>TOTAL AWARDS</u>
<u>(MILLIONS)</u> ⁸¹	
BOEING	\$152.5
TRW	\$96.5
AVCO	\$53.4
LOCKHEED	\$42.0
ROCKWELL INTERNATIONAL	\$40.8
HUGHES AIRCRAFT	\$27.2
LTV	\$21.5
AEROJET GENERAL	\$19.4
LITTON	\$18.4
MCDONNELL DOUGLAS	\$16.7

Additionally, 95% of SDI money for 1983-4 was allocated to five states: California, 45%; Washington, 22%; Texas, 13%; Alabama, 10%; and Massachusetts, 5%. Colorado benefitted from the designation of the Space Command

⁷⁹"Star Wars: Budgeting Big for University Science", *Science and Government Report*, Vol. 15, No. 7, (April 15, 1985), 4.

⁸⁰William Hartung, "Star Wars Pork Barrel", *Bulletin of the Atomic Scientists*, Vol. 42, No. 1, (January 1986), 23.

⁸¹Hartung, 21.

Headquarters in Colorado Springs. The congressman from that district established two organizations to promote a range of military and civilian uses of space.⁸²

POLICY ADJUDICATION

The debate in Congress over SDI funds in 1986 looked much the same as 1985. The conference committee cut the President's request from \$5.3 billion to \$3.5 billion. This compromise was roughly a split of the difference between the \$3.125 billion authorized by the House and the \$3.9 billion approved by the Senate. The Senate, however, on August 5th rejected two amendments by one vote that would have reduced the amount approved by the Senate Armed Services Committee to \$3.24 billion or \$3.56 billion. If either amendment had been passed then the compromise authorization would have been reduced accordingly.⁸³

There were several provisions in the authorizations that modified the program. The legislation barred the establishment of a Pentagon-funded think tank for SDI unless the Congress specifically granted authorization in

⁸²Hartung, 23.

⁸³"Defense Authorization", *1986 Congressional Quarterly Almanac*, (Washington, D.C.: Congressional Quarterly, 1986), 483.

future measures. The act also recommended that SDI be refocused to put less emphasis on trying to provide a nationwide defense of the population and more emphasis on defending selected military targets. These provisions had several effects. First, the barring of a think tank limited the Pentagon's ability to promote SDI and build a larger constituency for the program. Second, the recommendation to limit the program to protecting military targets set the stage for a re-examination of the program's goals as expressed by the President's original speech and focused attention on SDI with respect to the ABM treaty.

LEGITIMATION REVISITED

1986 and 1987 saw the beginning of a reexamination of the SDI program at the most fundamental level. Three events brought about this reexamination. First, the coalition of scientists against SDI gained support in the academic community. Although scientists had been split on the workability of the program from the beginning, the debate did not reach a wide audience until 1986. 2700 scientists took a pledge to not accept SDI money and to actively campaign against the program. John Kogut and Michael

Weissman noted, "We quickly concluded that our primary responsibility was to expose the dangers of Star Wars to the public, in the hope that the program could not survive the light of free discussion. . .Most important, we agreed that for our statement to carry any moral weight we had to pledge neither to solicit nor to accept any of the Star Wars research funds being dangled before us."⁸⁴ The efforts of these scientists challenged the core technological assumptions that Teller and others involved in the research had testified made SDI achievable. The claim of the fallibility of SDI became more credible when juxtaposed with the Challenger disaster. Americans for the first time had seen that American technology could fail and this lent legitimacy to the claims of the scientists opposing SDI.

The second event that impacted on the legitimization of SDI was the mid-term Congressional elections. The important feature was the loss of Senate control by the Republicans. Control of the Senate meant control of the Armed Services Committee and control of the SDI agenda. The SDI agenda had been limited to budgetary concerns. Although the Senate had cut the President's requests every

⁸⁴John Kogut and Michael Weissman, "Taking the Pledge Against Star Wars", *Bulletin of the Atomic Scientist*, January 1986, 28.

year, its cuts were not as large as those in the House and consequently the compromise between the two houses of Congress kept the appropriation within acceptable limits for the Administration. The loss of Senate control meant the loss of this capability. Barry Goldwater would not only be replaced as Chairman of the Armed Services Committee by Sam Nunn but also by new staff members who would be doing the research and framing the questions when SDI advocates came to the committee to testify. The SDI agenda would be expanded to include the discussions of the legal standing of the program as well as funding.

In the wake of the Republican loss of the Senate a third event in 1986 impacted on the SDI debate--the December "non-summit" in Reykjavik. This event placed the SDI debate again in the forefront of public discussions. The cause was the President's refusal to place SDI on the arms control bargaining table. By refusing to do this the President passed up an opportunity to gain substantial concessions from the Soviets on intermediate missiles. The result was dramatic. The President was seen as the one who was standing in the way of an arms control agreement for the sake of a research program that would not yield any tangible results for many years. As Harrison Brown noted,

"Star Wars is clearly the major sticking point, and unless something new is brought into the picture, it is likely to continue that way. This is an enormous tragedy, for virtually no one really believes that Star Wars will ever be an effective, functional, accurate system. It will make lots of money for lots of groups, but it is most unlikely to ever replace the present system of deterrence."⁸⁵ These three events set the stage for 1987 in which the SDI's legitimacy would be challenged in the Senate.

In 1987 the Reagan Administration faced its toughest opposition to the policy of developing a space-based defense against ballistic missiles. The opponents of the program primarily waged their fight in the Senate and attacked the program on the budget and legal fronts.

The budget front was an effort to cut the Administration's request for \$5.8 billion for Fiscal Year 1988. The initial version of the appropriations bill in the House cut funding for SDI to \$3.8 billion. This was reduced to \$3.6 billion when the House adopted a substitute version of the bill cutting the overall authorization by \$17 billion to conform to the defense budget ceiling set by the House

⁸⁵Harrison Brown, "Drawing the line at Star Wars," *Bulletin of Atomic Scientists*, January 1987, 3.

version of the budget resolution. On May 12 the House considered four amendments on SDI funding levels. The House quickly defeated two of the measures: one to raise the spending on SDI to \$4 billion and the other to lower spending to \$1.2 billion. The other amendments consisted of one sponsored by Representative Rowland (R-Conn), designed to cut spending to \$3.55 billion, was defeated by only six votes. The other amendment, sponsored by Representative Bennett (D-Fla), was designed to reduce SDI spending to \$3.12 billion. This amendment passed by a vote of 219 to 199.⁸⁶ The amendment passed for two reasons. First, the rules governing the votes on SDI stated all four amendments would be voted on but only the last one adopted would be attached to the bill. "In crafting the rule, Democratic leaders stipulated that Bennett's would be the last amendment voted on, so members could first cast a 'pro-Reagan' vote for Rowland and then vote for Bennett."⁸⁷ Second, many members stated that in order to bargain with the Senate (which had authorized \$4.5 billion) toward a \$3.6 billion authorization the House had to approve a much lower

⁸⁶Pat Towell, "House Slashes President's SDI Requests in Move to Slow Push for Deployment," *Congressional Quarterly*, 16 May 1987, 974.

⁸⁷Towell, "House Slashes President's SDI Request," 974.

amount.⁸⁸ Additionally, the House defeated two amendments designed to alter the program's scope and pace. One amendment by Representative McCloskey (D-Ind) barred testing of space based kinetic kill vehicles. Secretary Weinberger favored this type of system for early deployment. Yet, even without leadership support the amendment came close to passing, losing only 203 to 216. The other amendment submitted by Representative Kemp (R-NY) would force deployment of an SDI system by 1993. Kemp's amendment was defeated 121 to 302.⁸⁹

The Senate during this time was conducting a review of the budget requirements of SDI and the legal implications of the program with respect to the 1972 ABM Treaty. The Armed Services Committee, chaired by Sam Nunn (D-Ga), approved \$4.5 billion for SDI-a cut of \$2.2 billion. Nunn also sent President Reagan a letter on 6 February 1987 addressing the problem of the President's intention for SDI and the Senate's interpretation of the ABM Treaty. Nunn wrote: "I am concerned that absent due consultation, a unilateral Executive Branch decision to disregard the interpretation of the Treaty which the Senate

⁸⁸Towell, "House Slashes President's SDI Request," 975.

⁸⁹Towell, "House Slashes President's SDI Request," 975.

believed it had approved when the accord was ratified in 1972 would provoke a Constitutional confrontation of profound dimensions."⁹⁰ The interpretation of the ABM Treaty would be the arena for the fight over SDI in the Senate. Nunn followed up his letter to the President with an amendment to the defense appropriation bill requiring "congressional approval by joint resolution of tests of anti-ballistic missile devices that are based in space or on aircraft, ships, or mobile ground vehicles."⁹¹ On the same day the Senate Foreign Relations Committee voted to add to the 1988 State Department authorization bill a provision mandating compliance with the traditional ABM Treaty interpretation.⁹² Senate Republicans responded by filibustering the defense bill on May 13, 1987. The filibuster lasted until September 11 when the Republicans conceded they no longer had the votes to block its consideration. When the bill was taken up in the Senate another amendment was attached to reduce the Senate authorization for SDI from \$4.5 billion to \$3.7 billion. The

⁹⁰Sam Nunn, "The Nunn Letter: A Text," *Congressional Quarterly*, 14 February 1987, 274.

⁹¹Pat Towell, "Senate Panel Lays Groundwork for Showdown on Star Wars," *Congressional Quarterly*, 9 May 1987, 904.

⁹²Pat Towell, "Senate Panel Lays Groundwork for Showdown on Star Wars," 904.

vote was 50-50 with Vice-president Bush casting the tie breaking vote against the amendment. On October 2 the Senate passed the Defense Authorization Bill with the Nunn amendment by a vote of 56 to 42. The President threatened to veto the bill if the Nunn amendment was not removed from the final conference bill. Nunn countered by noting a veto would not make the problem go away for the President and promised the issue would reappear in companion legislation. Additionally, the Senate Foreign Relations Committee threatened to delay consideration of the emerging arms agreement with the Soviet Union if the Administration held to its less restrictive interpretation of the ABM Treaty.⁹³

Inspite of this opposition the President held to his view of SDI. This was evident at his October 22 news conference:

Q: Mr. President, now that an INF deal is all but wrapped up, the next step would be strategic weapons. The Soviets have said that they are willing to give you big cuts in those missiles that you've always wanted if you would agree to some limits on strategic defense testing. Now a lot of experts have said that would not require slowing down the program for the foreseeable future. Why have you told your negotiators that they cannot even discuss this issue with the Soviets?

⁹³"Senate Committee Threatens Delay of New Arms Pact," *New York Times*, 21 September 1987, National Edition.

A: Because if you put it on the table as a bargaining chip, then it becomes a bargaining chip. And we have said that this, a real defense against nuclear weapons, can be the biggest factor in hopefully one day making those weapons obsolete.⁹⁴

For what ever reasons Soviet leader Gorbachev the next day interjected himself into the debate by declining to set a date for a summit meeting with President Reagan unless differences over SDI were resolved first. In order to discount the Soviet objection to a summit without movement on SDI the Administration sought to separate the INF Treaty signing from a summit meeting. The Soviets, again in a surprise move, reversed their earlier declaration and set a summit date for 7 December without any conditions on SDI. On November 8 the House, Senate, and Administration worked out a compromise on the ABM Treaty issue. The net effect was to put off the issue of the ABM Treaty interpretation for another year. The compromise stipulated that funds approved for the 1988 fiscal year would be only for the current schedule of 'Star Wars' tests, all of which conform to the traditional restrictive interpretation of the ABM Treaty. But the legislation will not affirm the

⁹⁴"News Conference," *New York Times*, 23 October 1987, National Edition.

traditional interpretation, and the issue will have to be faced again next year.⁹⁵ The House on 17 November passed the Defense Authorization bill. The Senate followed by passing the bill on and the President signed it on.

SDI AND THE POLITICS OF LEGITIMATION

SDI and the politics of legitimation have been outlined above. This section will examine legitimation in detail with emphasis on what legitimation is and how the various factions in the debate have used the politics of words and expertise to frame their discussion of SDI.

EARLY APPROPRIATIONS AND LEGITIMACY

Prior to the President's speech on SDI the program had gained legitimacy through the funding authorized by Congress on each of the three technologies individually. The President did not create a new program. He pulled several lines of research together, increased spending on each, and provided the goal of creating a workable system to protect the United States from ballistic missiles. Since the Congress had already voted on these programs individually there wasn't debate on the fundamental legitimacy of SDI.

⁹⁵"A Compromise on Arms Reached in Washington," *New York Times*, 8 November 1987, National Edition.

Further, the President used SDI to allay the fears of the nuclear threat and offered SDI as a way to escape the dependence on the traditional nuclear deterrent. In his speech he asked, "What if free people could live secure in the knowledge that their security did not rest upon the threat of instant retaliation to deter a Soviet attack, that we could intercept and destroy strategic ballistic missiles before they reached our own soil or that of our allies?"⁹⁶ The President has consistently defended the program as a necessary part of future United States defenses. In a recent speech he stated, "We will research it. We will develop it. And when it's ready, we'll deploy it."⁹⁷ These statements portray SDI as a program that will be successful. The Administration is using two criteria to judge the success or failure of SDI: the system must be survivable and cost effective at the margin.⁹⁸ At the moment neither criteria has been met.

BATTLE OF THE EXPERTS

⁹⁶"The Reagan Speech," *New York Times*, 24 March 1983, National Edition.

⁹⁷Joel Brinkley, "Reagan Reaffirms Star Wars Stand," *New York Times*, 24 November 1987, National Edition.

⁹⁸U.S. Department of State. *The Strategic Defense Initiative*. Special Report n. 129. Washington, June 1985, 5.

The President left the defense of SDI on technical grounds to his experts: the presidential science advisor, the director of SDIO, and the developers of SDI technology. The concern of these officials was to show that SDI could stand on technical grounds and was not a fantasy. George A. Keyworth was the President's science advisor when SDI was proposed. He identified his highest priority for 1985 as "continuing to help build the intellectual basis for SDI."⁹⁹ He defined intellectual basis as "trying to resolve some of the complex questions that come out of SDI."¹⁰⁰ General Abrahamson, director of SDIO, in a meeting with academics, stressed that SDI was only a research program and would be conducted within the bounds of treaty obligations. He noted that the university community suffered from "a terrible information gap, and it's really rather distressing to me, because it's from distrust of the leadership, because the President has made statements very clearly that it's only a research program; I've made similar statements in sworn testimony to Congress. I think the problem is that the critics are quite fast and loose with some of their interpretations of

⁹⁹"Keyworth Interview," *Science and Government Report*, Vol. 15, No. 1, January 15, 1985, 2.

¹⁰⁰"Keyworth Interview," 2.

what we're doing."¹⁰¹ Teller defended the program in a March 30, 1983 op-ed piece in the New York Times and noted that SDI was the "first step toward the conversion from mutually assured destruction to mutually assured survival."¹⁰² These Administration experts have been careful to tailor their descriptions of SDI to their audience, leaving the general public confused about the goal of SDI.

The opponents of SDI also have their experts-people who are not as sure as the Reagan experts that SDI will work. Harrison Brown noted: "The major talking point against Star Wars is that President Reagan is asking the United States and Soviet Union to invest billions of dollars in something that probably will not work. This point should be hammered home at every opportunity. One should stress that when it comes to the technology of this development the President does not know what he is talking about."¹⁰³ The viability of SDI software was questioned when David L. Parnas, a member of the SDI Organization's Panel on Computing in Support of Battle Management, resigned. He stated: "If you gave me the job of building the system, and

¹⁰¹"Academic Boycott Rouses DOD's Star War Chiefs," *Science and Government Report*, Vol. 15, No. 17, October 15, 1985, 4.

¹⁰²Herken, 28.

¹⁰³Brown, "Draw the Line at Star Wars," 3.

all the resources that I wanted, I could not do it. I don't expect the next 20 years to change that fact."¹⁰⁴ The fundamental issue to these critics of SDI was the larger the amount of software in a single, unified system, the higher the percentage of errors it will contain. Additionally, even if the system was built and tested no one could be sure that all the errors in the software had been found. The opponents of SDI pointed to the SAFEGUARD program as an example. SAFEGUARD was a missile defense system developed between 1969-1975 by Bell Laboratories. In tests conducted on the system 5,000 serious errors significant enough to affect the primary performance objective were found. Parnas noted: "The lay public, familiar with only a few incidents of software failure, may regard them as exceptions caused by inept programmers. Those of us who are software professionals know better; the most competent programmers in the world cannot avoid such problems."¹⁰⁵

Another aspect of the expert debate over SDI occurred in October 1987 when the *New York Times* reported that Dr. Roy Woodruff, an assistant of Teller's, had filed a suit claiming he was punished for his dissenting views on X-ray

¹⁰⁴Ware Myers, "The Star Wars Software Debate," *Bulletin of Atomic Scientists*, February 1986, 31.

¹⁰⁵Myers, 32.

laser research by being discredited, demoted, and denied a pay increase. He was director of weapons programs at the Lawrence Livermore National Laboratory at the time Teller was promoting advances in laser research. Woodruff charged that Edward Teller and Lowell Wood gave "overly optimistic and technically incorrect information to the nation's highest policymakers regarding the X-ray laser."¹⁰⁶ Woodruff also stated that "the vision of a leakproof shield that makes nuclear weapons impotent and obsolete is not a practical reality."¹⁰⁷

BATTLE OF THE EXPERTS-CLAIMS TO AUTHORITY

As outlined above both the Administration and the opponents of SDI left the technical debate of the viability of SDI to scientific experts. Since each group had experts who would present data advocating their respective position the debate centered around which set of experts was more credible. The Administration attempted to end the credibility issue immediately by having a large number of scientists present at the White House on the night of the

¹⁰⁶William J. Broad, "Dispute on X-Ray Laser Erupts at Weapons Lab," *New York Times*, October 22, 1987, National Edition.

¹⁰⁷Broad, "Dispute on X-Ray Laser".

President's initial SDI speech who had worked on the Manhattan Project--a tangible American scientific success. The President also made a plea to make SDI a second Manhattan Project in the speech. Unfortunately the group did not unanimously support the program so the Administration used William Teller as the expert authority on SDI. Teller was an advocate of the system and a link to a past American success. Teller wrote articles heralding the potential of SDI and lobbied members of congress for the program. Further, Teller's credibility was used to convince other academics to join in the research. Finally, Teller would provide the public with a respected expert who could calm any fears of the programs viability.

The opponents of SDI did not have a 'big name' expert that the public could identify with in order to judge the workability of SDI. The strategy used by this group was to overwhelm the congress and the public with a vast amount of expert opposition to the program. The efforts to gain a large number of scientists to pledge against accepting any SDI funds was part of this strategy. The opponents have also used a large number of technical scientific journals to get their point across to other members of the scientific community. This strategy has ignored the public and the

pressure that could be brought to bear against members of congress against SDI. More importantly, the opponents of SDI have not achieved the kind of credibility with the public as the Administration has with Teller. In late 1987, Teller's credibility was damaged by a claim by a former associate that Teller was overly optimistic in his assessment of SDI's potential. The opponents of SDI will have a difficult time in gaining support until they can convince a larger segment of the public that their technical judgements are superior to the judgements of the experts working for the Administration.

THE ABM INTERPRETATION

The Administration also insured that they included qualifiers in speeches concerning SDI to the effect that all research would adhere to the ABM Treaty. Yet the Administration sought to broaden the limits of the treaty as it would apply to SDI. The Administration had opted for this alternative to legitimize SDI with respect to the ABM Treaty rather than simply abrogating the treaty. The Administration pushed its case on March 26, 1987 with the testimony of Richard Perle, Assistant Secretary of Defense, and Abraham Sofaer, chief lawyer for the State Department.

Perle and Sofaer argued that during the negotiations leading up to the 1972 treaty, Soviet negotiators rejected U.S. efforts to ban futuristic space-based ABM weapons. Perle noted: "Despite the desire on the part of our negotiators to conclude a treaty prohibiting the development and testing of certain new defensive technologies, the Soviets failed to accept the proposals."¹⁰⁸ Perle contended that the treaty contains several provisions precluding the deployment of a 1972-style ABM system in space, but allowing the development of future kinds of ABM systems. Additionally, it was pointed out by Perle and Sofaer that many statements by Nixon Administration officials in 1972 during the Senate's debate were consistent with the Reagan Administration's lenient interpretation. Finally, both men argued that the few senators who focused on future systems were erroneously informed by officials of the Nixon Administration that space-based weapons development was banned by the treaty.¹⁰⁹ Perle's position was the U.S. government could not be bound by such an understanding because the Soviets were not similarly bound. Perle stated: "What is really at issue is whether we will restrict ourselves in a manner that

¹⁰⁸Pat Towell, "ABM Debate: Aides Defend the Reagan View," *Congressional Quarterly*, March 28, 1987, 558.

¹⁰⁹Towell, "ABM Debate," 558.

the Soviets would refuse to be restricted if they were in our position."¹¹⁰

The most visible actor in the ABM Treaty interpretation debate opposing the Administration's point of view has been Senator Sam Nunn. As noted above, Nunn sent a letter to the President expressing his concerns on the new interpretation of the ABM Treaty in February 1987. Nunn and Secretary of State George Schultze agreed that three bodies of evidence would be reviewed in hopes of reaching a consensus on the a reading of the 1972 treaty: the record of negotiations, the record of what the Senate was told and what senators believed about the treaty, and the record of how the two governments have observed the treaty and described its meaning since it took effect.¹¹¹ Nunn saw the record as indicating the Reagan Administration's interpretation was flawed. He noted: "the testimony clearly stated that development and testing of mobile and space-based exotics was banned while

¹¹⁰Towell, "ABM Debate," 558.

¹¹¹Towell, "Administration, Hill Revisit Debate over ABM Pact, SDI," 274.

development and testing of fixed land-based exotics was permitted."¹¹²

THE BUDGET AND LEGITIMATION

The question of how the budget process affects the process of legitimation is not an easy one to answer. The definition of legitimation used in this paper grants legitimation to policies that have passed the budget process. However, it does not address the impact of budget allocations on the outcomes of a particular policy. Specifically, can a program meet its goals? In the case of SDI the Administration has never received from the Congress all the funds requested for the program. The Administration to date has requested \$16.98 billion and received \$11.8 billion (69%) of the requested funds. Yet, these funds have allowed the program to proceed at a rate apparently acceptable to the Administration. Until recently most Administration officials felt the 1992 target for a deployment decision was attainable. The events in November 1987 concerning the deficit negotiations have changed the budgetary prognosis for the program. Gordon Smith, deputy director of SDIO, stated: "At this point I think

¹¹²Charles R. Gellner, "Which Interpretation of the ABM Treaty?," *Congressional Research Service Review*, Vol. 8, No. 6, June 87, 17.

the development decision will have to slip out beyond 1992, I don't think we will know enough by then."¹¹³ The additional impact has been to settle the debate regarding early deployment. Several military contractors doubt that any system could be deployed before the late 1990's and some companies are scaling down their plans to invest in SDI technology because of fears that large development contracts will be delayed.¹¹⁴ The end result may be that funding for SDI has peaked. If this is the case SDI will remain a legitimate program during the Reagan Administration's last year in office but fail in the long run to meet the objective of developing a deployable system. Further, the decrease in funding will prevent tests of the program that would have violated the traditional interpretation of the ABM Treaty. Therefore, the Administration will be spared the task of an ABM Treaty fight during a presidential election year.

CONCLUSION

The politics of legitimation with respect to SDI is being conducted by advocates and opponents of the policy using

¹¹³David E. Sanger, "Star Wars Facing Cuts and Delays; '92 Goal in Doubt," *New York Times*, 22 November 1987, National Edition.

¹¹⁴Sanger, "Star Wars Facing Cuts and Delays".

the politics of words and expertise to defend their views. The public has been inundated with a plethora of data supporting each view. No one can really project if SDI will produce a system capable of protecting the United States against ballistic missiles. No one can project if all the research to date will be used by a future administration to gain concessions from the Soviets on another arms treaty. The only certainty is that the debate will continue.

CONCLUSION

→ This thesis has set up a model of policy development and used the model in examining two case studies. The model used is not new or original to this text. The model, however, is used differently than in previous works. → The attempt in this work is to show how the president and congress interact throughout the policy process and what effect this interaction has on the policy itself. In the area of public policy the studies conducted fall into two categories. First, authors have singled out one stage of the policy process and attempted to draw conclusions regarding why one institution dominates or doesn't dominate a particular policy stage. Paul Light's work is an example of this approach. Light provides evidence to show that presidents do have a significant advantage at the beginning of their terms to set the national and legislative agendas. He further endeavors to provide guidelines to future presidents or more importantly their staffs on how new administrations should organize policy issues prior to January 20th in order to take advantage of their "honeymoon" period with congress before the next election considerations begin to

6. p. 87
affect policy decisions for both political actors. A second category of research in public policy examines the stages of public policy in general terms. Guy Peters work is an example of this type of study. In this category authors attempt to define the stages of the policy process and provide a sense of how policy is developed in specific areas but there is no attempt to cover a specific policy to see how political actors conducted themselves within the various stages and what affect their actions and interactions had on policy development. → 10 p. 41

This work has attempted to combine these two categories. The use of policy stages provides a lens to examine actions within a methodological framework and the use of case studies attempts to provide a sense of how actual policies are developed and how the problems encountered by both the president and congress in policy development are resolved. With this background the question remains-- what generalizations can be made regarding the role of each actor within the various policy stages? Although two case studies will not reveal the answer to this question for every case, they could provide some important insights into the role of each actor.

These two studies show that the president and the congress are interdependent actors throughout the policymaking process. Schull and Light assert the president is the predominate actor in the agenda setting stage. However, as these cases highlight, the president must tailor the agenda to fit the composition of the congress--the president does not develop the agenda in a vacuum. Further, if the president tailors the agenda he must also tailor the programs that are put forth out of the agenda. President Johnson had to reformulate his tax message several times before he felt it had the potential to pass in both houses of congress. President Reagan allowed SDI to be broadened in order to pick up additional support for the program. The result is each actor has had a tremendous impact on the other prior to the policy reaching the point of a formal legislative proposal.

The interaction between the two actors becomes more complex once the legislative stage is reached. The proposal must now traverse the various procedural routes within the congress from subcommittee review and action, full committee review and action, action by both houses, and finally action by a conference committee if there are differences between the houses. At any of these points the

bill could die and the president has only a few resources to influence members considering the bill. Essentially the president can influence members through four ways--as party leader, dispenser of federal funds, national vote getter, and as a focal point for the media. As party leader the president can attempt to exercise the same power he has a commander-in-chief, but since the party structures are weak party members are not bound to support a president if by doing so their own political life is threatened. The president can use federal funds in some instances to buy support, but this ability has been overemphasized. The congress has the ability in the authorization process to direct where federal funds will be spent. Further, in some instances committees and executive agencies are mutually reinforcing through "iron triangles" that would thwart an effort by the president to use federal funds in a carrot and stick fashion. Third, the president can appeal to members based on his ability to run better in the members district or by public opinion polls showing the president's popularity is higher than the members. In the case of President Johnson he was not in a good position to do either. Finally, the president can always draw media attention to the legislation. President Johnson attempted to do this but the

country was not aroused enough to force Mills to consider the tax measure and it was only through extraordinary means the tax legislation prevailed. Further, even if the president uses these measures to help a piece of legislation through congress he has no guarantee that the final bill will resemble his initial proposal. The tax surcharge was modified to include deep budget and personnel cuts the Administration did not want, but had to accept if it wanted the surcharge. The Reagan Administration had to accept a broadening of SDI to include all forms of laser and kinetic research in order to keep the program alive in congress.

The role of each actor in the legitimation stage also reveals that this stage can be used to alter the scope of debate on a policy issue or used to take the issue off the national agenda. The battle over the ABM Treaty was one such attempt. The resulting compromise was successful in allowing the program to develop within the present testing framework. However, any future tests of the system that are not in accord with the ABM Treaty will need to be approved by congress. The result is that the congress will have a voice in the implementation of SDI tests.

The president has been seen as the primary actor in the implementation stage of policy development. However,

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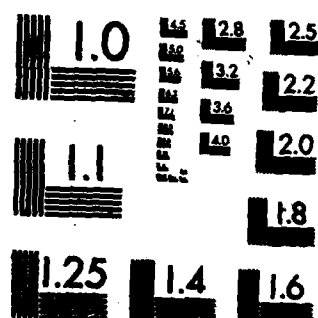
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MICROCOPY RESOLUTION TEST CHART
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in these two cases the president was not the sole actor involved in implementation. As noted above the senate has already had a hand in affecting the implementation of SDI tests. Further, Marcus Ethridge has asserted that legislatures are getting more involved in the implementation phase of policy development. The use of congressional oversight, authorization, and appropriation hearing impact on implementation. Through these means legislators have an opportunity to adjust agency actions if those actions have gone against legislative intent. Legislative intent can also change as members of committees change and this procedure is a method of educating the administrator of the new standards. Throughout the SDI debate various recommendations were made to the SDIO on lines of research and program objectives.

The results of the case studies in the stages of policy adjudication, monitoring, evaluation, policy modification, and termination also reveal a large amount of executive-legislative interdependence in the policymaking process. The structure of the institutions is the key to this interdependence. Each federal agency has a corresponding legislative committee. Each is dependent on the other. The legislative committee relies on the agency's information

regarding the specific field and the agency relies on the legislative committee's ability to recommend legislation (especially authorizations and appropriations) to the full house and have those measures adopted.

The net result is that the president is not the dominant partner in the policymaking process. The president is an equal partner with limited means to advance proposals through the process and have those proposals remain unaltered. Those who believe a president can work his will on congress seem to be confusing his power as commander-in-chief with his powers as chief executive.

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